



Express Mail No. EV452773151US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Thomas R. Keyer;
Larry Binder; and
Martin Walther

Confirmation No.: 3549

Serial No.: 10/822,599

Art Unit: 3732

Filed: April 12, 2004

Examiner: To be assigned

For: ROD PERSUADER

Attorney Docket No: 8932-927-999

**PETITION FOR FILING ON BEHALF OF UNCOOPERATIVE INVENTOR
LAWRENCE J. BINDER, Jr. UNDER 37 C.F.R 1.47(a)**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. 1.47(a), Applicants respectfully submit a Petition for Filing on Behalf of Uncooperative Inventor Lawrence J. Binder, Jr. An Affidavit from Giuseppe Molaro is attached, detailing proof of pertinent facts relating to the last known address of Mr. Binder, and the several attempts made to contact Mr. Binder regarding the above-identified patent application, which included sending a copy of the above-identified patent application and an unexecuted declaration to Mr. Binder with instructions to review the application and execute the declaration.

It is believed that a fee in the amount of \$130.00 is due at this time for the filing of this Petition and Affidavit. The Commissioner is authorized to charge this and any other fee(s) which may be due to Jones Day Deposit Account 50-3013.

Date: August 23, 2004

Respectfully submitted,

By: Giuseppe Molaro

52,039

(Reg. No.)

35,340

For: Brian M. Rothery

(Reg. No.)

JONES DAY

222 East 41st Street

New York, New York 10017

(212) 326-3939



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**DECLARATION IN SUPPORT OF FILING ON BEHALF OF UNCOOPERATIVE
INVENTOR LARRY BINDER, JR. UNDER 37 C.F.R. § 1.47(a)**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Giuseppe Molaro, Associate Attorney of Jones Day in New York, an attorney involved in the prosecution of the above-identified patent application on behalf of Thomas R. Keyer; and Martin Walther, hereby declare that:

1. This declaration is made on facts of which I have first hand knowledge and facts which are relied upon to establish that diligent efforts were made to secure the execution of a Declaration by inventor, Lawrence J. Binder, Jr., for the above-identified application in the United States Patent and Trademark Office.

2. Lawrence J. Binder, Jr. is a named inventor of the above-identified application.

3. The last known address of Lawrence J. Binder, Jr. is 5025 Sundance Court, Doylestown, PA, 18901.

4. On information and belief, on August 10, 2004, I sent Mr. Binder a letter via Federal Express to his last known address enclosing a copy of the above-identified patent application, along with an unexecuted declaration, and requested that he review the application, sign the unexecuted declaration, and return the executed declaration to my

attention. (A copy of the letter enclosed in the Federal Express package is attached as Exhibit A. Confirmation that Mr. Binder received the letter is attached hereto as Exhibit B).

5. On information and belief, on August 10, 2004, I called Mr. Binder on his home phone, his cell phone and an alternate cell phone to state that I was sending him a copy of the above-identified patent application, along with the unexecuted declaration. Mr. Binder's contact numbers were, and still are, all disconnected.

5. On information and belief, on August 16, 2004, that Mr. Binder made arrangements to meet with Ms. Kathy Pavlik in Paoli, Pennsylvania to execute a declaration in connection with the above-identified application.

6. On information and belief, on August 16, 2004, that Mr. Binder failed to show up to execute said declaration.

7. On information and belief, that since August 16, 2004, Mr. Binder has been in the process of moving from his residence at 5025 Sundance Court in Doylestown, Pennsylvania, and that Mr. Binder has refused to provide us with updated contact information thereby rendering it nearly impossible for me to contact Mr. Binder again in the future.

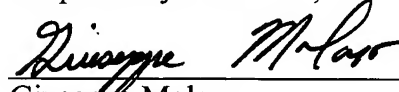
8. On information and belief, that numerous previous attempts to contact Mr. Binder to execute declarations in connection with other pending applications have also been unsuccessful.

9. Based on the foregoing, I have concluded that Lawrence J. Binder, Jr. refuses to execute a Declaration in connection with the above-identified application.

10. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed true; and further that these statements were made with knowledge that willful false statement and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: August 23, 2004

Respectfully submitted,


Giuseppe Molaro

52,039
(Reg. No.)

JONES DAY
222 East 41st Street
New York, New York 10017
(212) 326-7883

EXHIBIT A

Letter to Inventor Lawrence J. Binder, Jr. enclosing U.S. Patent Application Serial No.
10/822,599 and Unexecuted Declaration for same

JONES DAY

222 EAST 41ST STREET • NEW YORK, NEW YORK 10017-6702
TELEPHONE: 212-326-3939 • FACSIMILE: 212-755-7306

Direct Number: 212-326-7883
gmolaro@jonesday.com

JP006594:GM
708716-999903
(8932-927-999)

August 10, 2004

By FedEx

Mr. Lawrence J. Binder, Jr.
5025 Sundance Court
Doylestown, Pennsylvania 18901

Re: **Patent Application for Rod Persuader**

Dear Mr. Binder:

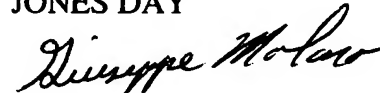
My name is Giuseppe Molaro and I am a patent attorney working with Brian Rothery on the above-identified patent application filed in the United States Patent Office on behalf of Synthes, U.S.A. Since you are a co-inventor on this application, we have enclosed a copy for your review. In order to complete the application papers, we would appreciate it if you could sign and date the Declaration. The Declaration states that you are a co-inventor in the above-identified patent application, that you have read the application and that you will disclose any material information which you are aware of during prosecution of the above-identified patent application.

After you have executed the Declaration, please return it to me as soon as possible in the envelope provided so that we can file it in the United States Patent Office.

Additionally, I have enclosed an Assignment document. The Assignment assigns your entire right to the material disclosed within the application to Synthes (U.S.A.) in accordance with your employment agreement. Please sign and date the Assignment in the presence of a Notary and return it to me in the envelope provided. Please do not hold up returning the declaration in order to notarize the Assignment.

If you have any question please do not hesitate to contact me.

Sincerely,
JONES DAY



Giuseppe Molaro
(Admission Pending)


Enclosures

c: Brian M. Rothery, Esq.

NYJD: 1537456.1

EXHIBIT B

A copy of the tracking report showing that Mr. Binder received the letter enclosing U.S.
Patent Application Serial No. 10/822,599 and Unexecuted Declaration for same

Track Shipments
Detailed Results Quick Help

Tracking number 609471135900
Signed for by B.INDER
Ship date Aug 10, 2004
Delivery date/time Aug 12, 2004 12:00 pm

Reference number JP006594, 708716-999903
Delivered to Recipient
Delivery location DOYLESTOWN PA
Service type Priority Overnight

Date/Time	Status	Location	Comments
Aug 12, 2004	12:00 pm Delivered	DOYLESTOWN PA	No signature required - release waiver on file
	12:00 pm Delivered	DOYLESTOWN PA	No signature required - release waiver on file
	8:13 am On FedEx vehicle for delivery	FORT WASHINGTON PA	
Aug 11, 2004	5:46 pm Package status	FORT WASHINGTON PA	Package in FedEx location
	9:45 am Delivery attempt	DOYLESTOWN PA	Customer not available or Business closed
	7:55 am On FedEx vehicle for delivery	FORT WASHINGTON PA	
	7:35 am Arrived at FedEx Destination Location	FORT WASHINGTON PA	
Aug 10, 2004	10:15 pm Arrived at Sort Facility	NEWARK NJ	
	10:15 pm Arrived at Sort Facility	NEWARK NJ	
	9:55 pm Left FedEx Origin Location	NEW YORK NY	
	5:33 pm Picked up by FedEx	NEW YORK NY	

Signature proof

Track more shipments

Email your detailed tracking results (optional)

Enter your email, submit up to three email addresses (separated by commas), add your message (optional), and click **Send email**.

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